

HB 393

BEFORE THE HOUSE NATURAL RESOURCES COMMITTEE

COMMENTS OF ART HAYES, JR., THE BROWN CATTLE COMPANY

February 7, 2011

Members of the committee for the record my name is Art Hayes Jr. I am a rancher from Birney Montana, which is located in the Tongue River Valley in Southeastern part of the state. For the past twenty years I have served as President of the Tongue River Water Users' Association that operates the Tongue River Dam and markets stored water to it members for the state of Montana.

This bill is far worse than eminent domain. At least with eminent domain a property owner gets fair market value for their property. This bill gives property owners a pittance.

I ask you to bear with me a few minutes while use my own ranch and twenty years of experience as President of the Tongue River Water Users to explain the situation. Tongue River valley has two very highly different water systems. The surface water of the Tongue River originates in the Big Horn Mountains of Wyoming and is as pure as any water in Western Montana. As the Tongue River flows to meet the Yellowstone at Miles City, the geology of the area changes from Granite Mountains to what is left of an ancient inland sea. The Tongue River naturally picks up salts as it flows through the geologic formations. Still, the irrigators of the valley have lived with that for over one hundred twenty years and have carefully managed the land and their irrigation practices to protect the river, the crops, their land and vegetation for wildlife.

Discharges into the Tongue River and its tributaries from coal bed methane wells, both in Montana and Wyoming, discharges from the coal mines at Decker, and run off of land-applied CBM water is changing our surface water from good to bad. Last spring, the Tongue River Water Users had to run ads in the local papers telling irrigators to irrigate with the water at their own risk due to lowered water quality.

Unlike Western Montana our ground water is highly saline, but it is good for stock and domestic use. The well at my house is 770 feet deep, and it supplies water for my domestic use and stock water for three pastures. It also supplies water essential for wildlife. Our ground water comes from a confined sandstone

aquifers associated with a coal veins. Of the 19 wells on my place 13 of them are in coal seams or sandstone formations associated with coal seams. To replace the 13 wells by going to the next aquifer, the Fox Hills formation that is below methane production formations, I would have to drill around 2,400 feet deep. The cost of one replacement well would around \$200,000 dollars today. And equally importantly, I would lose my senior water right.

We have learned a lot in the last 12 years since the production of coal bed methane started in Montana. The CBM wells are lasting 7-10 year instead of the 30 that the companies predicted.

When this prehistoric water is gone from these deep, vital aquifers it will probably never come back. And if it does recharge, it could take hundreds of years.

The salts brought up to the surface and dumped into our rivers from these deep geologic formations are going to affect irrigated agriculture for a long, long time. We cannot put this salty water on our land and crops without sustaining long-term damage.

As a taxpayer and business owner, I am highly insulted that the state of Montana believes that it can allow my constitutionally vested water rights to be taken for CBM development and only pay me a maximum of \$50,000. My private property can be ruined by a substance that man has known for two thousand years is harmful. Yet my ranching business, land, crops, and improvements are only worth a maximum of \$150,000 under HB 393 if the methane companies leave.

Once this short-lived development is gone there is no reason for the gas companies to stick around and be responsible for the damage. Why else would they support such a bill? They want to put to burden on the taxpayers of Montana.

Respectfully Yours,

/S/

Art Hayes, Jr.,

The Brown Cattle Company